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# HOUSE BILL No. 2031

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 16-18-2; IC 16-35-6; IC 34-30-2; IC 36-2-14-6.

**Synopsis:** Child fatality review teams. Provides for the establishment of a nine member child fatality review team on a county or regional basis to review the sudden, unexpected, or unexplained death of a child. Provides for the establishment of a 12 member state child fatality review team with the state health commissioner serving as chairperson. Provides that if a coroner requests an autopsy to review the sudden, unexpected, or unexplained death of a child, the autopsy shall be performed by a physician who is certified by the American Board of Pathology. Provides for an appropriation of \$40,000 from the state general fund for the period beginning July 1, 2001, and ending June 30, 2003, for training the state child fatality review team and the county and regional child fatality review teams.

**Effective:** July 1, 2001.

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## Kruzan

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January 17, 2001, read first time and referred to Committee on Human Affairs.

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Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## HOUSE BILL No. 2031

A BILL FOR AN ACT to amend the Indiana Code concerning health and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 16-18-2-54.3 IS ADDED TO THE INDIANA
- 2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2001]: **Sec. 54.3. "Child", for purposes of**
- 4 **IC 16-35-6, means a person less than sixteen (16) years of age.**
- 5 SECTION 2. IC 16-18-2-110 IS AMENDED TO READ AS
- 6 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 110. "Emergency
- 7 medical services", for purposes of IC 16-31 **and IC 16-35-6**, means the
- 8 provision of emergency ambulance services or other services, including
- 9 extrication and rescue services, utilized in serving an individual's need
- 10 for immediate medical care in order to prevent loss of life or
- 11 aggravation of physiological or psychological illness or injury.
- 12 SECTION 3. IC 16-18-2-210.5 IS ADDED TO THE INDIANA
- 13 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 14 [EFFECTIVE JULY 1, 2001]: **Sec. 210.5. "Local child fatality review**
- 15 **team", for purposes of IC 16-35-6, means a county or regional**
- 16 **child fatality review team established under IC 16-35-6-1.**
- 17 SECTION 4. IC 16-18-2-225.8 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 225.8. "Mental health provider", for purposes of IC 16-36-1.5 and IC 16-35-6, has the meaning set forth in IC 16-36-1.5-1.

SECTION 5. IC 16-18-2-340.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 340.5. "State review team", for purposes of IC 16-35-6, means the state child fatality review team established by IC 16-35-6-8.**

SECTION 6. IC 16-35-6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

**Chapter 6. Child Fatality Review Teams**

**Sec. 1. (a) A county may establish a local child fatality review team for the purpose of reviewing the death of a child that is:**

- (1) sudden;**
- (2) unexpected; or**
- (3) unexplained.**

**(b) A legislative body (as defined in IC 36-1-2-9) must determine by majority vote if the county will establish a local child fatality review team.**

**(c) If a county elects not to establish a local child fatality review team as set forth in subsection (a), a county may join with other counties that have not established a local child fatality review team and form a regional child fatality review team as set forth under subsection (a).**

**(d) To establish a local child fatality review team as set forth in subsection (c), each county comprising the region must cast a majority of votes in favor of establishing a local child fatality review team. The votes must be cast by the legislative body of the county.**

**Sec. 2. A child fatality review consists of determining:**

- (1) whether the cause of death has been established;**
- (2) if investigative procedures of the agencies involved were adequate to accurately determine the cause of death;**
- (3) the involvement of schools, community based organizations, and other agencies with the child's family before the death; and**
- (4) whether the death could have been prevented.**

**Sec. 3. (a) A local child fatality review team consists of the following members:**

- (1) A coroner or deputy coroner from the area served by the local child fatality review team.**

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(2) A representative from a local health department established under IC 16-20-2-2, from the area served by the local child fatality review team.

(3) A physician residing or practicing medicine in the area served by the local child fatality review team.

(4) A representative of law enforcement from the area served by the local child fatality review team.

(5) A representative from an emergency medical services provider doing business in the area served by the local child fatality review team.

(6) A representative of the division of family and children from the area served by the local child fatality review team.

(7) A representative of the prosecuting attorney from the area served by the local child fatality review team.

(8) A pathologist with forensic experience who is licensed to practice medicine in Indiana.

(9) A representative from a fire department or volunteer fire department (as defined in IC 36-8-12-2) from the area served by the local child fatality review team.

(b) If a local child fatality review team is established in one (1) county, the legislative body that voted to establish the local child fatality review team under section 1 of this chapter shall:

(1) adopt an ordinance for the appointment and reappointment of members of the local child fatality review team; and

(2) appoint members to the local child fatality review team under the ordinance adopted.

(c) If a local child fatality review team is established in a region, the county legislative bodies that voted to establish the local child fatality review team under section 1 of this chapter shall:

(1) each adopt substantially similar ordinances for the appointment and reappointment of members of the local child fatality review team; and

(2) appoint members to the local child fatality review team under the ordinances adopted.

(d) The term of a member of a local child fatality review team is two (2) years.

(e) A member of the local child fatality review team may be removed by a majority vote of the other local child fatality review team members.

Sec. 4. A local child fatality review team may have additional members from the following categories:



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(1) A representative of a hospital located in the county or region served by the local child fatality review team.

(2) A mental health provider providing services in the county or region served by the local child fatality review team.

(3) A representative from a juvenile or a probate court in the county or region served by the local child fatality review team.

(4) Other representatives requested to serve by the members of the local child fatality review team.

Sec. 5. (a) Any member of the local child fatality review team may serve as chairperson. The chairperson shall be elected at the first meeting of the local child fatality review team and shall serve a term of two (2) years. A chairperson may be reelected to serve additional terms of two (2) years.

(b) The local child fatality review team shall meet at the call of the chairperson.

(c) The local child fatality review team chairperson shall determine the agenda for each meeting.

Sec. 6. Notwithstanding IC 5-14-1.5, meetings of a local child fatality review team are open only to members of the state review team and persons invited to the meeting by the chairperson. However, a meeting must be open to the public whenever the meeting involves issues that are not required to remain confidential under state or federal law. If the meeting is not open to the public, persons who:

(1) attend a meeting of the local child fatality review team; and

(2) are not members of the local child fatality review team or the state review team;

shall sign confidentiality statements prepared by the state child fatality review team and kept by the local child fatality review team.

Sec. 7. Members of a local child fatality review team and persons who attend a meeting of a local child fatality review team as an invitee of the chairperson:

(1) may discuss among themselves confidential matters that are before the local child fatality review team;

(2) are bound by all applicable laws regarding the confidentiality of matters reviewed by the local child fatality review team; and

(3) except when acting:

(A) with malice;



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(B) in bad faith; or  
 (C) with negligence;  
 are immune from any civil or criminal liability that might otherwise be imposed as a result of sharing among themselves confidential matters that are before the local child fatality review team.

Sec. 8. The state child fatality review team is established.

Sec. 9. (a) The state review team consists of the following members:

(1) The state health commissioner or the commissioner's designee.

(2) The director of the division of family and children or the director's designee.

(3) The chairperson of the commission on forensic sciences or the chairperson's designee.

(4) A coroner or deputy coroner, appointed by the governor.

(5) A pathologist, appointed by the governor.

(6) The superintendent of the state police department or the superintendent's designee.

(7) The executive director of the prosecuting attorneys council of Indiana or the director's designee.

(8) The director of the Indiana criminal justice institute or the director's designee.

(9) A pediatrician, appointed by the governor.

(10) Three (3) citizen members who have expertise or knowledge of issues relating to child abuse, neglect, and child fatalities, appointed by the governor.

(b) The state health commissioner or the commissioner's designee is the chairperson of the state review team.

(c) The state department shall provide staff support for the state review team.

(d) The state review team shall meet at the call of the chairperson.

(e) The term of the pediatrician member and the three (3) citizen members appointed to the state review team is two (2) years. If a citizen member or the pediatrician member resigns during the two (2) year term, the governor shall appoint a person to serve the remainder of the resigning member's term.

Sec. 10. The state department shall provide annual training to the state review team and local child fatality review teams. The training must include education in the following areas:

(1) Investigative techniques.

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(2) Medical terminology.

(3) Health and social factors contributing to the deaths of children.

(4) Conflict resolution.

(5) Possibilities for prevention of the deaths of children.

(6) Community resources.

(7) Necessity of child fatality reviews.

(8) Maintenance and necessity of confidentiality.

(9) Roles and duties of agencies, including the coroner's office, law enforcement agencies, county prosecuting attorneys, health care providers, and the office of the secretary of family and social services.

Sec. 11. The state department may contract with a statewide nonprofit organization with experience and knowledge in child abuse and neglect to implement all or part of the program.

Sec. 12. The state review team shall do the following:

(1) Develop model child fatality review procedures.

(2) Develop uniform reporting and recommendation forms.

(3) Review state trends and issues surrounding deaths of children.

(4) Promote efficient and confidential communication and coordination among state and local agencies.

(5) Identify problems surrounding deaths of children and develop specific prevention strategies.

(6) Monitor and evaluate the local review processes.

(7) Review the circumstances surrounding the deaths of children placed outside the home by a court order, county office of family and children, or law enforcement agency to determine agency accountability, if any.

(8) Make recommendations to community child protection teams established under IC 31-33-3, or other appropriate agencies.

(9) Develop, monitor, and evaluate the process for creating local child fatality review teams.

(10) Issue an annual report that compiles review findings and recommends policy or legislative changes, submit the report to the governor, and make the report available to the public.

(11) Ensure development and implementation of appropriate training for local child fatality review teams.

Sec. 13. (a) Each member of the state review team who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred

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in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the state review team who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 14. (a) The state review team shall collect and document information surrounding the deaths of children. The state review team shall develop a data collection form that includes:

- (1) identifying and nonidentifying information;
- (2) information regarding the circumstances surrounding a death;
- (3) factors contributing to a death; and
- (4) findings and recommendations of the state review team.

(b) The data collection form developed under this section must also be provided to the appropriate community child protection team and appropriate local health department established under IC 16-20-2-2.

Sec. 15. (a) Notwithstanding IC 5-14-1.5, meetings of the state review team are open only to members of the state review team, members of any local child fatality review team, and persons invited by the chairperson. However, a meeting shall be open to the public whenever the meeting involves issues that are not required to remain confidential under state or federal law. If a meeting is not open to the public, persons who:

- (1) attend a meeting of the state review team; and
- (2) are not members of the state review team or a local child fatality review team;

shall sign confidentiality statements prepared by the state review team and kept by the state review team.

(b) The members of the state review team and any other persons who attend a meeting of the state review team are bound by all applicable laws regarding the confidentiality of matters reviewed by the state review team.

Sec. 16. When attending a meeting of the state review team, members of the state review team, members of a local child fatality review team, and persons invited to the meeting by the

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chairperson:

(1) may discuss among themselves confidential matters that are before the state review team;

(2) are bound by all applicable laws regarding the confidentiality of matters reviewed by the state review team; and

(3) except when acting:

(A) with malice;

(B) in bad faith; or

(C) with negligence;

are immune from any civil or criminal liability that might otherwise be imposed as a result of sharing among themselves confidential matters that are before the state review team.

**Sec. 17. (a) All public inquiries concerning the state review team must be directed to the chairperson of the state review team.**

**(b) The state review team's annual report is available to the public. The state review team may not charge more than the amount set by IC 5-14-3-8 to offset the cost of copying the annual report.**

**SECTION 7. IC 34-30-2-70.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 70.6. IC 16-35-6-7 (Concerning members of a local child fatality review team and persons who attend a meeting of a local child fatality review team as an invitee of the chairperson).**

**SECTION 8. IC 34-30-2-70.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 70.7. IC 16-35-6-16 (Concerning members of a state child fatality review team, members of a local child fatality review team, and persons who attend a meeting of a state child fatality review team as an invitee of the chairperson).**

**SECTION 9. IC 36-2-14-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. (a) Whenever the coroner is notified that a person in the county:**

(1) has died from violence;

(2) has died by casualty;

(3) has died when apparently in good health;

(4) has died in an apparently suspicious, unusual, or unnatural manner; or

(5) has been found dead;

he shall, before the scene of the death is disturbed, notify a law enforcement agency having jurisdiction in that area. The agency shall

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1 assist the coroner in conducting an investigation of how the person died  
2 and a medical investigation of the cause of death.

3 (b) The coroner shall file with the person in charge of interment a  
4 coroner's certificate of death within seventy-two (72) hours after being  
5 notified of the death. If the cause of death is not established with  
6 reasonable certainty within seventy-two (72) hours, the coroner shall  
7 file with the person in charge of interment a coroner's certificate of  
8 death, with the cause of death designated as "deferred pending further  
9 action". As soon as he determines the cause of death, the coroner shall  
10 file a supplemental report indicating his exact findings with the local  
11 health officer having jurisdiction, who shall make it part of his official  
12 records.

13 (c) If this section applies, the body and the scene of death may not  
14 be disturbed until the coroner has photographed them in the manner  
15 that most fully discloses how the person died. However, a coroner or  
16 law enforcement officer may order a body to be moved before  
17 photographs are taken if the position or location of the body unduly  
18 interferes with activities carried on where the body is found, but the  
19 body may not be moved from the immediate area and must be moved  
20 without substantially destroying or altering the evidence present.

21 (d) **Except as provided in subsection (e)**, when acting under this  
22 section, if the coroner considers it necessary to have an autopsy  
23 performed or is requested to do so by the prosecuting attorney of the  
24 county, he shall employ a physician:

- 25 (1) certified by the American Board of Pathology; or
- 26 (2) holding an unlimited license to practice medicine in Indiana  
27 and acting under the direction of a physician certified by the  
28 American Board of Pathology;

29 to perform the autopsy. The physician performing the autopsy shall be  
30 paid a fee of at least fifty dollars (\$50) from the county treasury. A  
31 coroner may employ the services of the medical examiner system,  
32 provided for in IC 4-23-6-6, when an autopsy is required, as long as  
33 this subsection is met.

34 (e) **If an autopsy is requested to review the death of a child**  
35 **under IC 16-35-6, the physician performing the autopsy must be**  
36 **certified by the American Board of Pathology.**

37 (f) If:

- 38 (1) at the request of:
  - 39 (A) the decedent's spouse;
  - 40 (B) a child of the decedent, if the decedent does not have a  
41 spouse;
  - 42 (C) a parent of the decedent, if the decedent does not have a

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1 spouse or children;

2 (D) a brother or sister of the decedent, if the decedent does not  
3 have a spouse, children, or parents; or

4 (E) a grandparent of the decedent, if the decedent does not  
5 have a spouse, children, parents, brothers, or sisters;

6 (2) in any death, where two (2) or more witnesses who  
7 corroborate the circumstances surrounding death are present; and

8 (3) two (2) physicians who are licensed to practice medicine in  
9 the state and who have made separate examinations of the  
10 decedent certify the same cause of death in an affidavit within  
11 twenty-four (24) hours after death;

12 an autopsy need not be performed. The affidavits shall be filed with the  
13 circuit court clerk.

14 SECTION 10. [EFFECTIVE JULY 1, 2001] (a) **There is**  
15 **appropriated to the state department of health forty thousand**  
16 **dollars (\$40,000) from the state general fund for carrying out the**  
17 **purposes of IC 16-35-6-14 and IC 16-35-6-15, as added by this act,**  
18 **beginning July 1, 2001, and ending June 30, 2003.**

19 (b) This SECTION expires July 1, 2003.

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